Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, (DC Law 5-48, DC Official Code § 44-501, *et seq*.)

§ 44-501. Definitions [Formerly § 32-1301]

(a) For the purposes of this subchapter the term:

(1) "Hospital" means a facility that provides 24-hour inpatient care, including diagnostic, therapeutic, and other health-related services, for a variety of physical or mental conditions, and may in addition provide outpatient services, particularly emergency care.

(2) "Maternity center" means a facility or other place, other than a hospital or the mother's home, that provides antepartal, intrapartal, and postpartal care for both mother and child during and after normal, uncomplicated pregnancy.

(3) "Nursing home" means a 24-hour inpatient facility, or distinct part thereof, primarily engaged in providing professional nursing services, health-related services, and other supportive services needed by the patient/resident.

(4) "Community residence facility" means a facility that provides a sheltered living environment for individuals who desire or need such an environment because of their physical, mental, familial, social, or other circumstances, and who are not in the custody of the Department of Corrections. All residents of a community residence facility shall be 18 years of age or older, except that, in the case of group homes for persons with mental retardation, no minimum age shall apply, unless this requirement is waived in accordance with § 44-505(e).

(5) "Group home for persons with mental retardation" means a community residence facility that provides a home-like environment for at least 4 but no more than 8 related or unrelated individuals who on account of mental retardation require specialized living arrangements, and maintains the necessary staff, programs, support services, and equipment for their care and habilitation.

(6) "Hospice" means an agency, organization, facility, or distinct part thereof, primarily engaged in providing a program of in-home, outpatient, or inpatient medical, nursing, counseling, bereavement, and other palliative and supportive services to terminally ill individuals and their families.

(7) "Home care agency" means an agency, organization, or distinct part thereof, other than a hospice, that provides, either directly or through a contractual arrangement, a program of health care, habilitative or rehabilitative therapy, personal care services, homemaker services, chore services, or other supportive services to sick individuals or individuals with disabilities living at home or in a community residence facility. The term "home care agency" shall not be construed to require the regulation and licensure of nonmedical services delivered by or through a religious organization on a small-scale, volunteer basis.

(8) "Ambulatory surgical facility" means any facility, other than a hospital or maternity center but including an office-based facility, at which there are performed

outpatient surgical and related procedures that have been classified in accordance with § 44-504(h) due to their complexity or the degree of patient risk.

(9) "Renal dialysis facility" means any place, other than a hospital or the patient's home, that provides therapeutic care for persons with acute or chronic renal failure through the use of hemodialysis, peritoneal dialysis, or any other therapy that clears the blood of substances normally excreted by the kidneys.

(b) The Mayor shall have the authority to define variant types of facilities and agencies reasonably classified within the broader categories defined in subsection (a) of this section, and may issue rules under § 44-504 with respect to these subtypes. The Mayor shall make the final determination of whether a particular facility or agency falls within a category defined in subsection (a) of this section or a subtype defined by the Mayor pursuant to this subsection.

(c) When used throughout this act, the terms "facility" and "agency" and their plural forms shall, unless contextually inappropriate or subject to specific exception, apply to all of the facilities and agencies defined in subsection (a) of this section as well as those subtypes defined by the Mayor. The Mayor shall make the final determination of whether a provision is contextually inappropriate for a particular agency or facility.

§ 44-502. License requirements [Formerly § 32-1302]

(a) Except as provided in subsections (b), (c), and (d) of this section, it shall be unlawful to operate a facility or agency in the District of Columbia, whether public or private, for profit or not for profit, without being licensed by the Mayor.

(b) This subchapter shall not apply to a facility or agency operated by the federal government or, except in the case of community residence facilities, by and for the adherents of a church or religious denomination that, in accordance with established tenets, recognizes spiritual healing as the sole means of treating illness.

(c) Facilities and agencies that, prior to February 24, 1984, were not or would not have been subject to licensure in the District of Columbia may operate without a license until 6 months after the adoption of applicable rules under § 44-504.

(d) The continued operation of a facility or agency pending action by the Mayor on an application for licensure renewal or initial licensure under subsection (c) of this section shall not be deemed unlawful if a completed application was timely filed but, through no fault of the facility or agency or its governing body, staff, or employees, the Mayor has failed to act on the application before the expiration of the facility's or agency's current license or, under subsection (c) of this section, its authorized period of operation. A facility or agency operating under this subsection shall comply with all other provisions of this subchapter and rules adopted pursuant to this subchapter.

(e) Application forms shall list all certificates of approval, authority, occupancy, or need that are required as a precondition to lawful operation in the District of Columbia.

(f) A license shall be valid only for the premises stated on the license.

(g) Any change in the ownership of a facility or agency owned by an individual, partnership, or association, or in the legal or beneficial ownership of 10% or more of

the stock of a corporation that owns or operates a facility or agency, shall be subject to written notice of the change being given to the governmental licensing authority at least 30 days prior to the change in ownership. Upon notification, the governmental licensing authority may, at its discretion, require reinspection and relicensure to ensure that the facility or agency will remain in compliance with the provisions of this subchapter, rules adopted pursuant to this subchapter, and all other applicable provisions of law.

(h) Unless sooner terminated or renewed, a license required by this subchapter shall expire one year from the date of issue or the last renewal.

(i) Each facility licensed under this subchapter shall post its license in a conspicuous place on the premises, and each agency licensed under this subchapter shall have its license readily available for inspection by the public.

(j) Any license issued pursuant to this section shall be issued as a Public Health: Health Care Facility endorsement or a Public Health: Human Services Facility endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

§ 44-503. Authority of Mayor [Formerly § 32-1303]

(a) The Mayor shall:

(1) Ensure that licensing rules are consistent with certificate of need rules and that both are designed to facilitate the goals and objectives of the District of Columbia's state health plan and certificate of need program; and

(2) Conduct an initial inventory of facilities to determine actual physical bed capacity and operating bed capacity.

(b) The Mayor shall have the authority to license bed capacity by specific, well-defined services. For hospitals, licensure by type of service shall be limited to the following categories: Medical/surgical; ICU/coronary care; OB/GYN; nursery; intermediate neonatal and neonatal intensive care; pediatrics; alcoholism/chemical dependency; rehabilitation; and psychiatric.

§ 44-504. Rules [Formerly § 32-1304]

(a) The Mayor shall issue rules, consistent with other provisions of this chapter and pursuant to subchapter I of Chapter 5 of Title 2, establishing:

(1) License fees for private facilities and agencies reasonably calculated to reflect a facility's or agency's respective share of the cost of administering the provisions of this subchapter and rules adopted pursuant to this subchapter;

(2) Procedures deemed necessary to effectuate the purposes of this subchapter, including, but not limited to, procedures for:

(A) Issuing and renewing licenses;

(B) Obtaining variances;

(C) Ensuring that 6 months after the adoption of applicable rules under this subsection, licensure of all affected facilities and agencies shall be under the new rules;

(D) Waiving the inspection requirements of § 44-505(a) and (b) for those agencies that deliver services within the District of Columbia but are headquartered and licensed outside the District of Columbia, when, in the opinion of the Mayor, licensure by another jurisdiction constitutes sufficient evidence that the agency is in substantial compliance with District of Columbia law;

(E) Processing and following up on complaints by facility and agency staff, consumers, and advocates that are filed with the governmental licensing authority;

(F) Suspending or revoking the license of a facility or agency that is in violation of any provision of this subchapter, rule adopted pursuant to this subchapter, or other provision of District of Columbia or federal law, or whose governing body, chief executive officer, administrator, or director has made a material misrepresentation of fact to a government official with respect to the facility's or agency's compliance with any provision of this subchapter, rule adopted pursuant to this chapter, or other provision of District of Columbia or federal law; and

(G) Appealing from adverse licensure decisions;

(3) Standards for the construction and operation of each type of facility and agency, including (where appropriate), but not limited to, standards governing the following: Safety and sanitation of facilities; organizational governance and administration; employee and volunteer training, staff membership and delineation of clinical privileges (in addition to the standards set forth in § 44-507), and other personnel matters; diagnostic, therapeutic, emergency, anesthesia, laboratory, pharmaceutical, dietary, nursing, rehabilitation, social, and other services; infection control; patient/client/resident care and quality assurance; recordkeeping; utilization review; and internal complaint and appeal procedures; and

(4) A statement of patients'/clients'/residents' rights and responsibilities for each type of facility and agency.

(b) Repealed.

(c) In formulating the standards and statements of rights and responsibilities required by subsection (a)(3) and (4) of this section, the Mayor shall, within 30 days after February 24, 1984, appoint an advisory task force for each type of facility and agency except ambulatory surgical facilities and renal dialysis facilities. Each task force shall be composed of consumers, providers, advocates, and government agency representatives, and shall be charged with the responsibility of making formal written recommendations within a time frame established by the Mayor. The Mayor shall give substantial consideration to each task force's recommendations and shall, on a continuing basis before adoption of proposed rules, maintain a dialogue with each task force while reviewing and acting on its recommendations.

(d) Where appropriate, standards adopted under subsection (a)(3) of this section may incorporate, in whole or in part, the standards of private accrediting bodies and standard-setting organizations, as well as the federal conditions of participation and standards for health-insurance and medical-assistance programs. Whenever the

standards of a private accrediting body or standard-setting organization are revised and a copy is submitted to the Mayor, the Mayor shall evaluate the revised standards and determine whether any or all of them should be incorporated into new rules.

(e) Community residence facilities shall distribute a copy of the statement required by subsection (a)(4) of this section to each resident's parents, guardian, or other responsible person acting on his or her behalf. All other facilities shall conspicuously post copies of this statement near the main entrance and on every floor. Agencies shall distribute a copy of this statement to each patient/client upon the initial delivery of services. Each copy shall specifically state, in boldface, the address and telephone number of the appropriate in-house or intra-agency personnel and governmental authority to which complaints should be addressed.

(f) In setting standards under subsection (a)(3) of this section, the Mayor shall require that hospice and home care agency programs be centrally administered and organized to ensure effective coordination of all patient/client care services.

(g) Nothing in this section shall be construed to prohibit a facility or agency from supplementing the standards adopted under subsection (a)(3) of this section by establishing internal standards, policies, and procedures that promote safety and quality care, so long as they are reasonable and not inconsistent with this subchapter, rules adopted pursuant to this subchapter, or other District of Columbia law.

(h) For ambulatory surgical facilities, the rules required by subsection (a) of this section shall include a list of those outpatient surgical procedures that, if not performed in a hospital or, when appropriate, a maternity center, may be performed only in a facility licensed as an ambulatory surgical facility. In formulating this list of procedures before its publication as a proposed rule, the Mayor shall solicit input from a broad range of health professionals, relevant institutional providers, and other members of the public who are knowledgeable about ambulatory surgery or ambulatory surgical facilities. This list shall be periodically reviewed and updated by rulemaking pursuant to subchapter I of Chapter 5 of Title 2.

(i) (1) As part of the standards for hospitals and renal dialysis facilities required by subsection (a)(3) of this section, the Mayor shall establish standards and procedures with respect to:

(A) The labeling, handling, transporting, storage, routine inspection, and preventive maintenance of dialysis equipment;

(B) The reprocessing and reuse of hemodialyzers, dialysate port caps, and blood port caps;

(C) Water purification and quality;

(D) The flushing of residues from potentially toxic sterilants and disinfectants used during manufacture or reprocessing;

(E) The facility's responsibility to ensure individualized treatment, including the most appropriate choice of equipment for each patient and, for patients exhibiting hypersensitivity, the use of biocompatible membranes;

(F) The reporting of equipment failures and occurrences of pyrexia, sepsis, or bacteremia;

(G) The training, minimum qualifications, and supervision of dialysis staff; and

(H) The training and support provided to self-dialysis and home dialysis patients.

(2) The standards and procedures required by paragraph (1) of this subsection shall not be less stringent than the guidelines set forth in the July 28, 1986, Recommended Practice for Reuse of Hemodialyzers published by the Association for the Advancement of Medical Instrumentation ("AAMI Recommended Practice") and the recommendations of the Centers for Disease Control referenced in those guidelines ("CDC Recommendations").

(3) Until the standards and procedures required by paragraph (1) of this subsection become enforceable through licensure, hospitals and renal dialysis facilities shall comply with the AAMI Recommended Practice, except that, where there are CDC Recommendations, hospitals and renal dialysis facilities shall comply with the CDC Recommendations.

(4) No hospital or renal dialysis facility shall reuse blood tubing or transducer protectors.

(5) No hospital or renal dialysis facility shall reuse a hemodialyzer or dialyzer caps on a patient unless that patient has first signed a written consent form after having been orally advised by a physician of the potential risks, benefits, and uncertainties surrounding reuse and the disinfection process. The advising physician shall not be a medical director of the facility or dialysis unit, nor shall he or she have a financial interest in the facility. The information conveyed shall consist of a full and fair presentation of representative opinions from those in the medical community who have expressed concerns about reuse practices, and those who support these practices. Any discussion of "first-use syndrome" shall include information about advances in biocompatible-membrane technology.

(6) Dialysis patients shall have the following nonwaivable rights, to be supplemented by the statement of rights and responsibilities established by the Mayor pursuant to subsection (a)(4) of this section:

(A) To revoke or limit, either orally or in writing, a previously executed reuse consent at any time and for any reason;

(B) To be informed before each dialysis treatment of the number of times the dialyzer and dialyzer caps have been previously used;

(C) To have documented in their patient-care records all consents to reuse, refusals to consent, revocations of consent, and limitations placed upon consent;

(D) To have unrestricted access to their patient-care records;

(E) To make the reuse-content decision in an environment devoid of threats, intimidation, or retaliation by the facility or its staff; and

(F) Except as provided by paragraph (7) of this subsection, to remain at a facility

and receive treatments with a new, state-of-the-art dialyzer and new dialyzer caps whenever consent to reuse is refused or revoked or reuse is prohibited by limitations placed upon consent.

(7) A hospital or renal dialysis facility may transfer or decline to admit a patient on account of that patient's refusal to consent to the reuse of hemodialyzers or dialyzer caps only if:

(A) The Mayor certifies that the facility is currently in full compliance with this subsection and all other District of Columbia laws that regulate, either directly or indirectly, the reprocessing and reuse of hemodialyzers and dialyzer caps;

(B) The facility, in cooperation with a patient-care ombudsman designated by the Mayor, identifies and secures a permanent placement for the patient in an alternative facility within the District of Columbia where that patient will be provided the option of receiving each treatment with a new, state-of-the-art dialyzer and new dialyzer caps; and

(C) The patient-care ombudsman designated by the Mayor finds that the patient can obtain equally reliable transportation to and from the alternative facility without suffering extreme physical, psychological, or financial hardship.

(8) Paragraphs (3) through (7) of this subsection shall be applicable and enforceable with respect to all hospitals and renal dialysis facilities, whether licensed or temporarily exempt from licensure under § 44-502(c), immediately on February 28, 1987.

(j) The proposed rules, except those rules that establish or modify license fees as described in subsection (a) of this section, shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 5 of Title 2.

(k) Any license issued pursuant to this section shall be issued as a Public Health: Health Care Facility endorsement or a Public Health: Human Services Facility endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

§ 44-505. Inspections [Formerly § 32-1305]

(a) To ensure that each new facility and agency will be in compliance with the provisions of this subchapter, rules adopted pursuant to this subchapter, and all other applicable laws and rules, the Mayor shall conduct an on-site inspection prior to a facility's or agency's initial licensure. Instead of issuing a full-year license to a new facility or agency, the Mayor may issue a provisional license under § 44-506 pending satisfactory completion of additional, follow-up inspections.

(b) After initial licensure the Mayor shall conduct an on-site inspection as a precondition to licensure renewal, except that the Mayor may accept accreditation by a private accrediting body, federal certification for participation in a health-insurance or medical assistance program, or federal qualification of a health maintenance

organization as evidence of, and in lieu of inspecting for, compliance with any or all of the provisions of this subchapter and rules adopted pursuant to this subchapter that incorporate or are substantially similar to applicable standards or conditions of participation established by that body or the federal government. Acceptance of private accreditation by the Mayor shall be contingent on the facility's or agency's:

(1) Notifying the Mayor of all survey and resurvey dates no later than 5 days after it receives notice of these dates;

(2) Permitting authorized government officials to accompany the survey team; and

(3) Submitting to the Mayor a copy of the certificate of accreditation, all survey findings, recommendations, and reports, plans of correction, interim self-survey reports, notices of noncompliance, progress reports on correction of noncompliances, preliminary decisions to deny or limit accreditation, and all other similar documents relevant to the accreditation process, no later than 5 days after their receipt by the facility or agency or submission to the accrediting body.

(c) An authorized government official may enter the premises of a facility or agency during operating hours for the purpose of conducting an announced or unannounced inspection to check for compliance with any provision of this subchapter, rule adopted pursuant to this subchapter, or other provision of District of Columbia law. In conducting an inspection, the official shall make every effort not to disrupt the normal operations of the facility or agency and its staff.

(d) (1) If a facility or agency loses private accreditation or federal certification, it shall give the Mayor written notice of the loss within 5 calendar days. If in such a case accreditation or certification was accepted in lieu of an inspection under subsection (b) of this section, the Mayor shall immediately upon notification:

(A) Convert the facility's or agency's license to a provisional or restricted license under § 44-506 pending satisfactory completion of an inspection conducted by the Mayor; or

(B) Suspend the facility's or agency's license based upon a finding that loss of accreditation or certification was prompted by existing deficiencies that constitute an immediate or serious and continuing danger to the health, safety, or welfare of its patients/clients/residents.

(2) The Mayor may, prior to a hearing, suspend the license of any facility or agency or convert its license to a provisional or restricted license if he or she determines that existing deficiencies constitute an immediate or serious and continuing danger to the health, safety, or welfare of its patients/clients/residents.

(3) Upon the suspension or conversion of a license pursuant to this subsection, the Mayor shall immediately give the facility or agency written notice of the action, including a copy of the order of suspension or conversion, a statement of the grounds for the action, and notification that the facility or agency has 7 days (excluding Saturdays, Sundays, and legal holidays) from the day written notice is received to request an expedited, preliminary review hearing. If the facility or agency fails to communicate, either orally or in writing, a timely request for a preliminary review hearing, the order of suspension or conversion shall remain in effect until terminated by the Mayor or an unexpedited hearing is held pursuant to procedures

adopted under § 44-504. Upon receipt of a timely request for an expedited, preliminary review hearing, the Mayor shall within 72 hours (excluding Saturdays, Sundays, and legal holidays) provide a hearing to review the reasonableness of the suspension or conversion order. At this hearing, the Mayor shall have the burden of establishing a prima facie case of immediate or serious and continuing endangerment. The suspension or conversion order shall be either affirmed or vacated at the hearing. In the event an order is affirmed, it shall, unless extended, remain in effect for no longer than 30 calendar days, during which time a final hearing shall be scheduled to consider the appropriateness of revocation or continuing restrictions on licensure. Before expiration of a suspension or conversion order, an extension may be granted for a period not to exceed an additional 30 calendar days upon agreement of all the parties or for good cause shown.

(e) The Mayor shall have the authority, upon a showing of undue hardship and if not inconsistent with other provisions of this chapter or deleterious to the public health and safety, to grant variances with respect to the standards to be established under § 44-504(a)(3). The Mayor shall maintain a public record listing all variances granted under this subsection and containing a complete written explanation of the basis for each variance.

§ 44-506. Provisional and restricted licenses [Formerly § 32-1306]

(a) As an alternative to denial, nonrenewal, suspension, or revocation of a license when a facility or agency has numerous deficiencies or a serious single deficiency with respect to the standards to be established under § 44-504(a)(3), the Mayor may:

(1) Issue a provisional license if the facility or agency is taking appropriate ameliorative action in accordance with a mutually agreed upon timetable; or

(2) Issue a restricted license that prohibits the facility or agency from accepting new patients/clients/residents or delivering certain specified services that it would otherwise be authorized to deliver, if appropriate ameliorative action is not forthcoming.

(b) As provided in § 44-505(a), provisional licenses may be issued to new facilities and agencies in order to afford the Mayor sufficient time and evidence to evaluate whether a new facility or agency is capable of complying with the provisions of this subchapter, rules adopted pursuant to this subchapter, and other applicable provisions of law.

(c) Provisional licenses may be granted for a period not exceeding 90 days, and may be renewed no more than once.

(d) Any provisional license issued pursuant to this section shall be issued as a provisional Public Health: Health Care Facility endorsement or a provisional Public Health: Human Services Facility endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of Title 47.

D.C. Code § 44-507 (2006)

§ 44-507. Standards for clinical privileges and staff membership; anticompetitive practices prohibited [Formerly § 32-1307]

(a) The accordance and delineation of clinical privileges shall be determined on an individual basis and commensurate with an applicant's education, training, experience, and demonstrated current competence. In implementing these criteria, each facility and agency shall formulate and apply reasonable, nondiscriminatory standards for the evaluation of an applicant's credentials. As part of its overall responsibility for the operation of a facility or agency, the governing body, or designated persons so functioning, shall ensure that decisions on clinical privileges and staff membership are based on an objective evaluation of an applicant's credentials, free of anticompetitive intent or purpose. Whenever possible, the credentials committee and other staff who evaluate and determine the qualifications of applicants for clinical privileges and staff membership shall include members of the applicant's profession. The credentials committee shall accept the District of Columbia's uniform credentialing form as the sole application for a healthcare provider to become credentialed or recredentialed.

(b) The following are not valid factors for consideration in the determination of qualifications for staff membership or clinical privileges:

(1) An applicant's membership or lack of membership in a professional society or association;

(2) An applicant's decision to advertise, lower fees, or engage in other competitive acts intended to solicit business;

(3) An applicant's participation in prepaid group health plans, salaried employment, or any other manner of delivering health services on other than a fee-for-service basis;

(4) An applicant's support for, training of, or participation in a private group practice with members of a particular class of health professional;

(5) An applicant's practices with respect to testifying in malpractice suits, disciplinary actions, or any other type of proceeding; and

(6) An applicant's willingness to send a certain amount of patients/clients who are in need of the services of a facility or agency to a particular facility or agency; provided, that this last restriction shall not apply to public facilities and agencies.

Each facility or agency shall formulate procedures to ensure that the foregoing factors play no part when decisions regarding clinical privileges and staff membership are made. In any action brought by an individual against a facility or agency regarding a determination of clinical privileges or staff membership, the facility or agency shall have the burden of proving that none of these considerations were a factor in the determination.

(c) No provision of District of Columbia law, institutional or staff bylaw of a facility or agency, rule or regulation, or practice shall prohibit qualified advanced practice registered nurses, podiatrists, or psychologists from being accorded clinical privileges and appointed to all categories of staff membership at those facilities and agencies that offer the kinds of services that can be performed by either members of these health professions or physicians.

(d) General and family practitioners who have demonstrated a current competence in the performance of particular services or procedures shall not be discriminated against with respect to staff membership or the accordance and delineation of clinical privileges on account of their type of practice.

(e) If a facility or agency offers the types of services that can be performed by physician assistants or other, analogous health professional assistants, it shall establish clearly defined and objective procedures for the processing and evaluation of requests by members of these groups to provide such services at the facility or agency.

(f) Whenever a health professional submits a completed application for staff membership or clinical privileges to a facility or agency, that facility or agency shall have 120 calendar days to grant or deny the application. No facility or agency may deny such an application, terminate, or reduce the rights and responsibilities attending the staff membership of a health professional, or reduce, suspend, revoke, or refuse to renew his or her clinical privileges, without providing him or her with the following minimum procedural protections:

(1) A contemporaneous written explanation containing the explicit reasons for taking the action;

(2) Reasonable advance notice of the right to a fair hearing which would afford the applicant an opportunity to adequately prepare a rebuttal to the stated reasons for the action;

(3) A fair hearing, including the right to present evidence and call witnesses in his or her behalf;

(4) The right to have retained counsel present at the hearing if the facility or agency is represented by counsel at the hearing;

(5) A written decision containing the explicit reasons for taking the action and substantially based on the evidence produced at the hearing; and

(6) Access to a complete record documenting all preliminary and final decisions and proceedings related to the decisions.

§ 44-508. Reporting to licensing authority [Formerly § 32-1308]

(a) Except as provided in subsection (b) of this section, in the event that a health professional's: (1) clinical privileges are reduced, suspended, revoked, or not renewed; or (2) employment or staff membership is involuntarily terminated or restricted for reasons of, or voluntarily terminated or restricted while involuntary action is being contemplated for reasons of, professional incompetence, mental or physical impairment, or unprofessional or unethical conduct, a facility or agency shall submit a written report detailing the facts of the case to the duly constituted governmental board, commission, or other authority, if one exists, responsible for licensing that health professional.

(b) The reporting requirement in subsection (a) of this section shall not apply to a temporary suspension or relinquishment of privileges or responsibilities if a health

professional enters and successfully completes a prescribed program of education or rehabilitation. As soon as there exists no reasonable expectation that he or she will enter and successfully complete such a prescribed program, the facility or agency shall submit a report forthwith pursuant to subsection (a) of this section.

§ 44-509. Penalties; enforcement [Formerly § 32-1309]

(a) Any person who intentionally impedes a District of Columbia official or employee in the performance of his or her authorized duties under this subchapter, or any rule issued pursuant to this subchapter, shall be subject to a fine not exceeding $ 1,000 per day of violation, imprisonment for not more than 90 days, or both. Prosecution shall be in the Superior Court of the District of Columbia by information signed by the Attorney General for the District of Columbia or one of his or her assistants.

(b) Notwithstanding the availability of any other remedy, the Attorney General for the District of Columbia or one of his or her assistants may maintain, in the name of the District of Columbia, an action in the Superior Court of the District of Columbia to enjoin any person, agency, corporation, or other entity from operating a facility or agency in violation of the terms of its license, provisions of this subchapter, or any rule issued pursuant to this subchapter.

(c) Notwithstanding the availability of any other remedy, an individual who is aggrieved by a violation of any provision of this subchapter or rule issued pursuant to this subchapter may maintain an action in the Superior Court of the District of Columbia to enjoin the continuation of that violation or the commission of any future violation.

(d) (1) Any person who knowingly gives an owner, licensee, administrator, or employee of a facility or agency, whether directly or indirectly, advance notice of an officially unannounced inspection or investigation to be conducted by the Mayor, the Long-Term Care Ombudsman designated pursuant to 42 U.S.C.S. § 3027(a)(12), or their designees, shall be:

(A) Guilty of a misdemeanor and, upon conviction, subject to a fine not exceeding $ 5,000, imprisonment for not more than 90 days, or both; and

(B) If a District government employee, subject to disciplinary and other remedial action in accordance with District law.

(2) Prosecution under paragraph (1)(A) of this subsection shall be in the Superior Court of the District of Columbia by information signed by the Attorney General for the District of Columbia or one of his or her assistants.

(e) (1) Civil fines, penalties, and related costs may be imposed against a facility or agency, whether public or private, for the violation of any provision of this subchapter, rule issued pursuant to this subchapter (including residents' rights established pursuant to § 44-504(a)(4)), or other District of Columbia or locally enforceable federal law. Except as provided in paragraphs (2) through (5) of this subsection and subsection (f)(1) of this section, procedures for adjudication and enforcement and applicable fines, penalties, and costs shall be those established by or pursuant to Chapter 18 of Title 2. Governmental immunity shall not be a defense to any civil fine, penalty, or cost imposed.

(2) Whenever the respondent in proceedings for a civil fine or penalty is the licensee or administrator of a nursing home or community residence facility, the Long-Term Care Ombudsman shall have the right to intervene as a party in any hearing, administrative appeal, or court review that is a part of those proceedings. As a party to the proceedings, the Long-Term Care Ombudsman shall be served with a copy of the notice of infraction, all hearing notices, all orders of the Administrative Law Judge, any notices of appeal, and any orders of a court.

(3) Civil fines, penalties, and related costs imposed against a nursing home or community residence facility shall not come out of the funds needed to provide quality care and services to residents. To monitor compliance with this paragraph, the Mayor shall conduct an audit at least annually of every nursing home and community residence facility against which civil fines, penalties, or costs have been imposed. Civil fines, penalties, and costs imposed against any nursing home or community residence facility owned by the District of Columbia shall be paid into either the special fund or account if established pursuant to § 44-1002.09, or a special account to be used for the personal needs of residents.

(4) Notwithstanding the availability of other means of enforcement, the Mayor may directly deduct the amount of civil fines, penalties, and related costs imposed against any facility or agency from amounts otherwise payable by the District of Columbia to the licensee or administrator of that facility or agency.

(5) Any person who violates any provision of this subchapter, or any rules or regulations promulgated pursuant to this subchapter, for which a civil fine has not been established pursuant to § 2-1801.04, shall be subject to a civil fine in an amount not to exceed that established for the closest existing analogous violation.

(f) (l) Any person who commits a violation of any provision of this subchapter, or any rules or regulations promulgated pursuant to this subchapter, that results in demonstrable harm to a patient, resident, or client of a facility or agency, shall be subject to a fine for each offense not to exceed $ 10,000. For each violation, each day of violation shall constitute a separate offense, and the penalties prescribed shall apply to each separate offense. The total fine for a series of related offenses shall not exceed $ 100,000. Procedures for adjudication of violations under this subsection shall be those established pursuant to Chapter 18 of Title 2.

(2) Except as provided in subsections (a) and (d) of this section, any person who knowingly violates this subchapter, or any rules or regulations promulgated pursuant to this subchapter, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than $ 25,000, or imprisoned for not more than 180 days, or both. For each violation, each day of violation shall constitute a separate offense, and the penalties prescribed shall apply to each separate offense. Prosecutions for violation of this subchapter pursuant to this subsection shall be brought in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia.